

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

WISCONSIN ALUMNI RESEARCH
FOUNDATION,

Plaintiff,

v.

INTEL CORPORATION,

Defendant.

ORDER

08-cv-78-bbc

In an order entered September 17, 2009, I decided the parties' cross motions for partial summary judgment. I denied defendant Intel Corporation's motion for summary judgment on its counterclaim that plaintiff Wisconsin Alumni Research Foundation's United States Patent Number 5,781,752 is invalid as anticipated by four "memory reference tagging" techniques disclosed in United States Patent Number 5,619,662. In deciding that matter, I construed the term "prediction" to require a value capable of ongoing change and concluded that none of the four techniques identified disclose a "prediction."

Now before the court is defendant's motion for reconsideration. Defendant contends that, although plaintiff had not moved for summary judgment, the court essentially gave it

such relief by ruling that the techniques disclosed in the '662 patent do not anticipate the patent. Defendant adds that it has an expert who has described how some of the memory reference techniques disclose "intelligent learning," which could disclose a "prediction" capable of ongoing change. In addition, the expert describes "inherent" disclosure of a "prediction" capable of ongoing change.

To be clear, the court has not granted summary judgment to plaintiff on defendant's anticipation counterclaims. Although it would be futile for defendant to attempt to prove up anticipation on the theories it presented at summary judgment, it may present its "intelligent learning" and "inherency" theories to the jury. Defendant's motion for reconsideration, dkt. #424, is DENIED as unnecessary.

Entered this 23d day of September, 2009.

BY THE COURT:
/s/
BARBARA B. CRABB
District Judge